

WILLIAMSBURG CITY COUNCIL
September 12, 2002
MINUTES

The Williamsburg City Council held its regular monthly meeting on September 12, 2002, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Messrs Haulman, Houghland and Tabb. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Yost, Clayton, Nester, Hudson, Serra; Deputy Fire Chief Geddy and Ms. Miller, Assistant to the City Manager.

CALL TO ORDER

The meeting was called to order by Mayor Zeidler.

COUNCIL MINUTES

Mr. Houghland Moved Approval of the City Council Minutes of August 5 and August 8, 2002. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

MATTERS OF SPECIAL PRIVILEGE

Excellence in Service to Williamsburg Award, presented to Donald Fleming

Mayor Zeidler asked Mr. Fleming to join her at the podium. She read the recognition of the Excellence in Service to Williamsburg Award, which recognized Mr. Fleming's work in the city's Landscaping Department. (applause) The Mayor also presented him with an award plaque.

Mr. Fleming thanked City Council and said the landscaping crew worked together as a group. He thanked Mr. Tuttle and Mr. Clayton for the resources they provide him to do his job. One of the benefits of his job is that he meets citizens everyday and they appreciate what the city does, and that drives him to keep working.

Recognition of George S. Genakos

Mayor Zeidler announced that a resolution recognizing Mr. Genakos for his service and contributions to the city was signed by council members, and would be forwarded to Mr. Genakos.

PUBLIC HEARINGS:

PCR #10-02: Request of Old Brandon Investment Company (Walgreen's) to Amend the Zoning Ordinance to Reduce the Parking Required for a Freestanding Pharmacy with Drive-Through Window to 1 space/400 sq. ft. of floor area, and to Allow a Freestanding Sign to be Located on an Adjacent Property When There Are Shared Parking and/or Driveways (Proposed Ordinances #02-21 and #02-22)

Reference for this item was Mr. Nester's report dated September 12, 2002. Mr. Nester

explained that these changes are related to the proposal to build a Walgreen's Pharmacy on Monticello Avenue to replace the old SunTrust building. The proposed amendment to the parking regulations will reduce the parking requirements for a freestanding pharmacy with a drive-through from one space for each 200 square feet of floor area to one space per each 400 square feet of floor area.

The second part of the request is to amend the sign regulations to allow a freestanding sign on contiguous property when parking or driveways are shared. Currently, the Zoning Ordinance allows for signage on adjoining lots when they are under the same ownership with shared parking and/or driveways. The proposed change would allow adjoining lots under different ownership to be treated as one lot if they share parking and/or driveways. If the request is approved, the Walgreen's sign could be placed at the corner of Richmond Road and Monticello Avenue. Mr. Nester noted that the applicant stated these changes would provide for flexibility for development, but only for properties where the driveways or parking are shared.

Staff recommended that the amendments be approved. The Planning Commission recommended approval of Proposed Ordinance #02-21, and recommended that Proposed Ordinance #02-22 be approved with the added provision that a special exception be approved by the Board of Zoning Appeals.

Mr. Nester noted that the applicant has been advised that the Richmond Road improvement and underground wiring projects may affect the location of the sign. If this request is approved, the location of the sign would be handled administratively, must meet zoning requirements, and not impede visibility.

Mayor Zeidler opened the public hearing.

Mr. John Crumpler, S.L. Nusbaum Realty Company, requested that Council approve this request in accordance with staff's original recommendation. He was excited about the location of the Walgreens Pharmacy. Exposure on Richmond Road is critical to the business. Access easements would have to be approved by the City Attorney, and adding the BZA process is an excessive step, when a single owner could place the sign by right.

Mr. Bob Singley, RGS, stated he has been working on this project in order to obtain the needed easements. The applicant is willing to make improvements to both the SunTrust and Staples properties. He asked that Council not include the requirement to go before the BZA.

Mr. Ben AtIshuler, 222 Virginia Avenue, was previously concerned about what would happen if another building were constructed on the corner at Richmond Road and Monticello Avenue. He liked the idea of easements, but asked that Council not make a precedent of signs being divorced from a business. There will be an open line of site between the sign and the building. He would like to see landscape improvements to Staples and Walgreen and hoped it would be pedestrian friendly. It has the potential to be an attractive commercial center.

No one else wished to speak. The Mayor closed the public hearing.

Mayor Zeidler said she could support either recommendation, and noted that she had spoken with members of the Planning Commission who said they did not feel strongly

about the requirement to go to the Board of Zoning Appeals.

Mr. Houghland Moved That City Council Adopt Proposed Ordinance #02-21, An Ordinance Amending Chapter 21, Zoning, by Revising Article V. Parking to Establish A Parking Requirement for A Freestanding Pharmacy, and Proposed Ordinance #02-22 (Original Version), An Ordinance Amending Chapter 21, Zoning, by Revising Article VI. Signs To Allow A Freestanding Sign on A Contiguous Property Having Shared Parking Lots And/Or Driveways. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None (SEE ADOPTED ORDINANCES #02-21& #02-22)

PCR #11-02: The Request of Port Anne Owner's Association to Amend the Port Anne PUD Requirements by Changing the Architectural Guidelines to Cement Board as well as Wood Siding (*Proposed Ordinance #02-23*)

Reference for this item was Mr. Nester's report dated September 12, 2002. Ms. Carolyn Murphy of the Planning Department said that the Port Anne Owners' Association has proposed to amend the Port Anne Planning Unit Development (PUD) requirements by changing the architectural guidelines to allow cement board siding in addition to wood siding. She read the letter from George Callis, President of the Port Anne Board of Directors requesting the change and the rationale for the change.

The Planning Commission recommended the request be approved and that Council adopt the proposed ordinance amending the Port Anne Architectural Guidelines. Ms. Murphy said that the Architectural Review Board would review the design and type of siding used.

Mayor Zeidler opened the public hearing.

No one wished to speak. The public hearing was closed.

Council members concurred with the request to amend the guidelines.

Mr. Haulman Moved that City Council Adopt Proposed Ordinance #02-23, An Ordinance Amending the Port Anne Planned Unit Development. The Motion Was Seconded by Mr. Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None (SEE ADOPTED ORDINANCE #02-23)

PCR #12-02: Amendment of the Zoning Ordinance to Better Define Neon Signs, Which Are Prohibited Except for "Open" Signs in the Corridor Sign District. (*Proposed Ordinance #02-24*)

Reference for this item was Mr. Nester's report dated September 12, 2002. Mr. Nester said this amendment is proposed to change the definition of "neon sign" to include a gas that is not neon. It is proposed to revise sections of the sign ordinance to include the language: by one or more exposed tubular electrical discharge lamps containing neon or other similar gasses (commonly referred to as a neon sign).

Planning Commission recommended that the amendment be approved.

Mayor Zeidler opened the public hearing.
No one wished to speak. The public hearing was closed.

Mr. Houghland Moved That City Council Adopt Proposed Ordinance #02-24, An Ordinance Amending the Code of the City of Williamsburg, Chapter 21, Zoning, Article VI, Signs, Secs. 21-747(2.1) and 21.749 (a) (2.1), Pertaining to Neon Signs. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

(SEE ADOPTED ORDINANCE #02-24)

ARB Sign #26-02: Appeal by Colonial Foods, LLC, of the ARB's Decision to Conditionally Approve A Monument Sign for Pizza Hut, 1611 Richmond Road. ARB Approved the Sign Subject to Changes to the Propose Colors to Meet the Design Review Guidelines.

Reference for this item was Mr. Nester's report dated September 12, 2002. Mr. Nester reported that this appeal was withdrawn by Pizza Hut. A new sign was approved by the ARB.

REPORTS

Monthly Financial Statement

The Monthly Financial Statement was received and ordered filed.

Monthly Departmental Operating Reports

The Monthly Departmental Reports were received and ordered filed.

Planning Report—None

City Manager Reports

Extension of Emergency Water Surcharge, *Proposed Ordinance #02-25*

Council members received a copy of the proposed ordinance. Mr. Clayton reported that the lower temperatures and recent rainfall have helped the reservoir level, but it is still dropping. The city continues to purchase two million gallons of raw water a day from Newport News at a cost of \$60,000 a month. Staff is recommending that the \$.50 surcharge be extended for an additional sixty days, effective the first water billing after October 1, 2002. Council will be asked to consider continuing the surcharge for an additional period of time in November.

Mr. Houghland Moved That City Council Adopt Proposed Ordinance #02-25, An Ordinance to Adopt An Emergency Surcharge of Fifty Cents Per Thousand Gallons of Water, Effective October 1, 2002. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

(SEE ADOPTED ORDINANCE #02-25)

Water Restrictions and Penalties, *Proposed Ordinance #02-26*

Reference for this item was Mr. Tuttle's report dated September 4, 2002, which included a

copy of the proposed ordinance. Mr. Clayton said that the Governor's Executive Order #33 prohibits certain uses of water. The proposed ordinance follows the restrictions outlined by the Governor's order and establishes penalties for violations. Using an overhead presentation, Mr. Clayton reviewed the restrictions, enforcement procedures, and fines outlined in the ordinance. Staff recommended adoption of the ordinance. Mr. Clayton reported that James City County has passed a similar ordinance. York County's ordinance is consistent with the city's and it is hoped that their fine structure will be the same as the city's.

Mr. Houghland suggested that in the future, a clause be added to the water agreement with York County that they must impose the same restrictions and penalties as the city, just as the city agreed to do with Newport News.

Mr. Phillips said that violations will be treated as civil proceedings, and the police will charge violators. The police will then advise the Public Works and Finance Departments of the violations and penalties will appear on the violators water bill or on a separate bill if they are violating the use of ground water. There is a provision for appeal through the General District Court.

Mr. Haulman Moved that City Council Adopt Proposed Ordinance #02-26, An Ordinance to Provide for the Temporary Regulation of Water Usage in Accordance with the Governor of Virginia's Executive Order 33 and Section 15.2-294 of the Code of Virginia and Provision of Penalties for the Violation Thereof. The Motion was Seconded by Mr. Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

(SEE ADOPTED ORDINANCE #02-26)

Removal of the Environmentally Hazardous James River Fleet, *Proposed Resolution #02-12*

Reference for this item was Mr. Tuttle's report dated August 30, 2002, which included a copy of the proposed resolution. Mr. Tuttle said that the proposed resolution encourages the United States Congress to appropriate funds for the removal of the environmentally hazardous James River Reserve Fleet (Ghost Fleet). Newport News has already adopted a similar resolution and is encouraging other Virginia localities approximate to the James River, or who are members of the Hampton Roads Planning District Commission, to take a similar action. The Fleet proposes both an ecological and economic threat to our region. It is recommended that the resolution be adopted.

Mr. Haulman Moved that City Council Adopt Proposed Resolution #02-12, A Resolution of the City Council of Williamsburg, Virginia, Encouraging the United States Congress to Appropriate Funds for The Removal of the Environmentally-Hazardous James River Reserve Fleet, and that A copy of Resolution #02-12 Be Sent to Our Senators and Congresswoman, and to the City of Newport News. The Motion Was Seconded by Mr. Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

(SEE ADOPTED RESOLUTION #02-12)

Prince George Parking Garage, Award of Bid

Reference for this item was Mr. Tuttle's report dated September 5, 2002. Mr. Tuttle said that the city received eight bids for the construction of the Prince George Street Parking Garage. Kjellstrom & Lee, Incorporated submitted the low bid of \$4,424,000 with an Additive Alternate 1 of \$13,000 (for providing permanently closed wooden doors in the four openings adjacent to the Virginia Power transformers and switch). Glave' & Holmes Associates, architects for the project, reviewed the bids. A separate bid was received for the installation of the parking controls for the garage, and it was recommended that the bid be awarded to CTR Systems, Incorporated for a total cost of \$189,356.

Staff recommended that Council authorize the City Manager to execute the contracts with Kjellstrom & Lee and CTR Systems. Mr. Tuttle reported that the Project Budget report included in Council's packet indicated the project is within budget.

Council members were very pleased to see that the parking garage project will begin in October.

Mr. Haulman Moved That City Council Authorize the City Manager to Enter Into a Contract with Kjellstrom and Lee, Inc., for the Construction of the Prince George Parking Garage for the Bid Amount of \$4,424,000, With An Option to Add Additive Alternate 1 at a Later Date in the Amount of \$13,000, Contingent Upon Approval of the Contract by the City Attorney, and That City Council Authorize the City Manager to Enter into a Contract with CTR Systems, Inc., for the Installation of a Parking Control System in the Prince George Parking Garage for \$189,356, Subject to the Approval of the Contract by the City Attorney. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

Parking Garage Construction Management Services Contract

Reference for this item was Mr. Tuttle's report dated September 9, 2002. Mr. Clayton reported that six proposals were received for construction management services for construction of the Prince George Parking Garage. Staff interviewed three firms and reviewed their references. It was recommended that the city contract with McDonough Bolyard Peck for the management services, at a fee of \$10,300 per month.

Mr. Phillips confirmed that the management contractor will represent the city, and Mr. Phillips will insure that the proper errors and omissions and liability insurances are provided.

Mr. Clayton said Glave' was familiar with this firm but did not participate in the review. Mr. Houghland voiced concern about the project manager staying on site for the entire construction process for continuity. Mr. Clayton responded that his office will be on site in a construction trailer, and he will report to the Public Works Department.

Mr. Houghland Moved That City Council Authorize the City Manager to Enter Into a Contract with McDonogh Bolyard Peck in the Amount of \$10,300/Month for Construction Management Services for the Prince George Parking Garage. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

Additional Property Acquisition for High Street, *Proposed Resolution #02-13*

Reference for this item was Mr. Tuttle's report dated September 5, 2002, which included a map of the parcels and properties needed to develop the High Street Property, and the proposed resolution authorizing the City Manager to sign agreements related to purchase and exchange in order to acquire certain properties not owned by the city.

Mr. Tuttle said the agreement provided to Council, signed by Allyn Julien, transfers to the city the leasehold interest and the ownership interest in the Carolynn Court and Chrysler Dealership, plus \$200,000. In exchange, the city would assume the lease obligations for the dealership property and grants title to the old "Bonanza" site and adjoining vacant parcel, which the city has under option contract, to Mr. Julien. Upon receiving the necessary approvals, Mr. Julien will relocate his dealership to the new site. Staff continues to work on the purchase of the underlying fee for the old dealership property from the Pittman family and a parcel behind the Carolynn Court owned by Mrs. Rachel Legge.

Mr. Tuttle said the proposed resolution was prepared by the City Attorney and authorizes him to sign certain agreements related to these property transactions.

Mayor Zeidler expressed Council's appreciation to all the owners of property for their cooperation and understanding of the High Street concept.

Mr. Haulman Moved That City Council Adopt Proposed Resolution #02-13, Resolution Authorizing Signing of Property Exchange Contract and Exercise of Options. The Motion Was Seconded by Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None (SEE ADOPTED RESOLUTION#02-13)

Refinancing Potential for Outstanding Utility Bonds

Reference for this item was Mr. Tuttle's report dated September 12, 2002. Mr. Tuttle said that staff has been working with the city's financial advisor, Mr. David Rose of Davenport & Company, on ways to save on the city's debt portfolio, given current low interest rates. Estimates show that the city may be able to save in excess of \$250,000 on the remaining 40-month term on the Royals Bond. In order to take advantage of the current interest rates, an RFP needs to be issued to banks, then proposals would be analyzed, negotiated and clarified, and the winning proposal could be awarded at the October 10 meeting, and closed by October 23.

Mr. Tuttle asked Council to authorize staff, along with Mr. Rose, to put together a refinancing proposal for the October Council agenda, if the refinancing results in savings for the city. This is an opportunity for cost savings for the city, but refinancing depends on market conditions.

Mr. Houghland offered that Council consider holding a special meeting in order to secure a lower rate. Council members concurred.

Mr. Haulman Moved that City Council Approve the Interim Financing Request for Proposals, Authorizing Davenport and Company to Solicit Proposals for a Bank Qualified Refinancing of \$5,880,000 for the Utility Fund's 2001 Royals Property Purchase. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

City Attorney Report

Hampton Roads Transportation Referendum

Reference for this item was Mr. Phillips report dated August 30, 2002, along with a copy of the explanation for the Hampton Roads Transportation Referendum. Mr. Phillips explained that the Virginia Code provides that the governing body must approve the language of the explanation of the transportation referendum that will be provided to voters. The explanation must be prepared by the City Attorney and be in "plain English." Council may authorize the preparation, printing, and circulating of the explanation, and also of its publication, if desired.

Mr. Haulman Moved That City Council Approve the Preparation, Publication, and Distribution of the Transportation Referendum Explanation as Prepared and Reviewed by the City Attorney, and that the Explanation Be Placed on the City's Public Access Channel (48). The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

NEW BUSINESS

City of Williamsburg Seal

Mr. Tuttle presented the design for the new City of Williamsburg seal, modeled after the successful 300th Anniversary seal (see attached), and asked for Council's opinion. Staff will develop a plan for implementation and use of the seal.

Council members concurred that they very much favored the new design.

Mr. Houghland Moved That City Council Adopt the New City of Williamsburg Seal as Presented. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Zeidler, Houghland, Tabb

No: None

Process for Appointment of City Council Member

Reference for this item was Ms. Crist's report dated September 10, 2002. Mayor Zeidler said that according to the City Charter, Council must appoint a new member within 60 days to fill the unexpired term of Mr. Genakos (June 30, 2006). Council members agreed to follow an open process with public input for the appointment. Applicants will need 40 signatures of registered voters indicating support of the applicant. This should create

attention to the appointment. The League of Women Voters will hold a candidate forum on October 15, 7:00 p.m., and the week following, Council will conduct interviews. The appointment will be made on or before November 5. Information about applying is available from the Clerk of Council.

OPEN FORUM

Doris P. Tillman, 108 Cove Point Lane, representing the League of Woman Voters, stated that the League members unanimously endorsed the Education Facilities Bond Referendum. It would finance educational, museum, and institution projects in Virginia. Some that would benefit included the College of William and Mary, Thomas Nelson Community College, the TNCC Historic Triangle Campus, and the Jamestown-Yorktown Foundation. The bonds will strengthen the State's bond rating and will be repaid through debt service. The League urged voters to vote Yes!

Mr. Ben Altshuler, 222 Virginia Avenue, addressed Council about the new City Seal. He thought the seal a poor idea and that it was indistinguishable. The city's Coat of Arms had the privilege of being granted by the Heraldry, and he urged the city to retain the current seal.

Mayor Zeidler responded to Mr. Altshuler that the Coat of Arms was not being replaced, and will still be used, along with the new seal.

The meeting adjourned at 3:25 p.m.

Approved: October 10, 2002

Clerk of Council

Mayor